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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/901,560
Filing Date	July 9, 2001
First Named Inventor	Jeremy A. Kenyon
Art Unit	2192
Examiner Name	Nguyen Ba, Hoang Vu A.
Attorney Docket Number	109910-130364

### ENCLOSURES (Check all that apply)

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><input checked="" type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify<br>below):<br>Return Receipt Postcard |
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Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name Schwabe, Williamson & Wyatt, P.C.

Signature

Printed name

Robert C. Peck

Date

February 27, 2006

Reg. No.

56,826

### CERTIFICATE OF TRANSMISSION/MAILING

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Yvette L. Chriscaden

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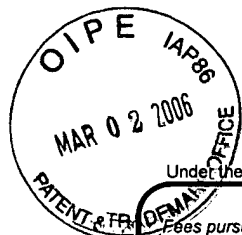
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Date

February 27, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## FEE TRANSMITTAL For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500

### Complete if Known

Application Number	09/901,560
Filing Date	July 9, 2001
First Named Inventor	Jeremy A. Kenyon
Examiner Name	Nguyen Ba, Hoang Vu A.
Art Unit	2192
Attorney Docket No.	109910-130364

### METHOD OF PAYMENT (check all that apply)

- ☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_
- ☒ Deposit Account Deposit Account Number: 500393 Deposit Account Name: Schwabe, Williamson et al
- For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)
- ☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
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### FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

#### 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets \_\_\_\_\_ Extra Sheets \_\_\_\_\_ Number of each additional 50 or fraction thereof \_\_\_\_\_ Fee (\$) \_\_\_\_\_ Fee Paid (\$) \_\_\_\_\_

- 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief Filing Fee

Fees Paid (\$)

500

#### SUBMITTED BY

Signature

Registration No. 56,826  
(Attorney/Agent)

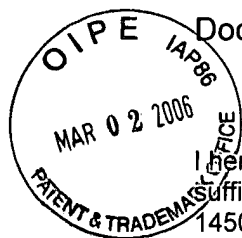
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Date February 27, 2006

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Docket No.: 109910-130364

**MAIL STOP: APPEAL BRIEF-PATENTS**

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By: Yvette L. Chiscaden Date: February 27, 2006  
Yvette L. Chiscaden

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Before the Board of Patent Appeals and Interferences

App. No. : 09/901,560 Confirmation No.: 4808  
Inventor : Jeremy A. Kenyon  
Filed : July 9, 2001  
Title : COMMUNICATION AND/OR TRANSACTION WITH CLIENT  
THROUGH ACTIVE MANAGEMENT OF A CLIENT MENU  
HIERARCHY  
Art Unit : 2192  
Examiner : Nguyen Ba, Hoang Vu A.  
Customer No. : 25,943

**MAIL STOP: APPEAL BRIEF-PATENTS**  
Commissioner for Patents  
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Alexandria, VA 22313-1450

**APPELLANT'S BRIEF IN SUPPORT OF APPELLANT'S APPEAL  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Dear Sir:

This appeal furthers the Notice of Appeal filed on January 17, 2006. The appeal arises from a final decision by the Examiner in the final Office Action, dated October 17, 2005. The final decision was in response to arguments filed on July 22, 2005, in response to an earlier office action, mailed March 22, 2005.

Appellants submit this *Brief on Appeal* in triplicate, including payment in the amount of \$500.00 to cover the fee for filing the *Brief on Appeal*. Appellants respectfully request

consideration of this appeal by the Board of Patent Appeals and Interferences for allowance of the present patent application.

**Real Party in Interest:**

This application is assigned Wild Tangent, Inc., having a principal place of business at 18578 NE 67th Ct., Redmond, Washington 98052 by virtue of an assignment recorded with the United States Patent and Trademark Office on January 9, 2002, at Reel 012459 Frame 0233.

**Related Appeals and Interferences:**

To the best of Appellants' knowledge, there are no related appeals or interference proceedings currently pending, which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

**Status of Claims:**

Appellants appeal the rejection of claims 1-36. Claims 1-36 were pending and claims 1-36 were rejected in the Final Office Action dated October 17, 2005. Claims 1-36 are reproduced, as pending, in Appendix A.

**Summary of the Claimed Subject Matter:**

Independent claim 1 is directed towards *a method implemented in a client device* that comprises "receiving from a remote server a distribution collection of sub-menu items for a menu item; determining whether one or more of the sub-menu items of said distribution collection are not part of an operational collection of sub-menu items of the menu item; updating the operational collection of sub-menu items of the menu item; and changing an operational visual representation of the menu item from a first state to a second state to convey to a user of the client device that new sub-menu items have been added to the operational collection of sub-menu items of the menu item." Element 108 of Figure 1 illustrates one example of a client device performing the operations recited in claim 1. Element 108 of Figure 1 is described in detail on pages 5-6, in

accordance with some embodiments. Figure 2 is a flowchart illustrating selected operations of one example of a client device performing the operations recited in claim 1. The operations illustrated by Figure 2 are described in greater detail on pages 7-10, in accordance with some embodiments. Figures 3a-3b, 4a-4b, 5a-5b, and 6a-6b are illustrations of exemplary menus and sub-menus before and after the operations recited in claim 1 have been performed. The menus and sub-menus illustrated in Figures 3-6 are described in greater detail on pages 10-16, in accordance with some embodiments.

Independent claim 14 is directed towards *an apparatus performing the operations of a client device* which, in substance, is claim 1 in apparatus form. Therefore, support can be found in the same figures and passages in the specification enumerated in the immediately preceding paragraph. Further, additional support can be found in Figure 7 and its corresponding description on pages 16-17. Figure 7 illustrates an exemplary computer system capable of performing the operations of a client device like the operations recited in claim 1, in accordance with some embodiments.

Independent claim 22 is directed towards *a method of installing a resource and sub-menu items utilized by a client device apparatus* like the client device claimed in claim 14. Element 108 of Figure 1 illustrates one example of a client device performing the operations recited in claim 22. Element 108 of Figure 1 is described in detail on pages 5-6, in accordance with some embodiments. Figure 2 is a flowchart illustrating selected operations of one example of a client device performing the operations recited in claim 22. The operations illustrated by Figure 2 are described in greater detail on pages 7-10, in accordance with some embodiments. Figures 3a-3b, 4a-4b, 5a-5b, and 6a-6b are illustrations of exemplary menus and sub-menus before and after the operations recited in claim 22 have been performed. The menus and sub-menus illustrated in Figures 3-6 are described in greater detail on pages 10-16, in accordance with some embodiments.

Independent claim 25 is directed towards *an apparatus performing the operations of a client device installing a resource and sub-menu items* which, in substance, is claim 22

in apparatus form. Therefore, support can be found in the same figures and passages in the specification enumerated in the immediately preceding paragraph. Further, additional support can be found in Figure 7 and its corresponding description on pages 16-17. Figure 7 illustrates an exemplary computer system capable of performing the operations of a client device like the operations recited in claim 22, in accordance with some embodiments.

Independent claim 28 is directed towards *a server apparatus performing the operations of installing a resource and sub-menu items on a client device* like the client device claimed in claim 25. Element 102 of Figure 1 illustrates one example of a server performing the operations recited in claim 22. Element 102 of Figure 1 is described in detail on pages 5-6, in accordance with some embodiments. Figure 2 is a flowchart illustrating selected operations of one example of a server performing the operations recited in claim 22. The operations illustrated by Figure 2 are described in greater detail on pages 7-10, in accordance with some embodiments. Figures 3a-3b, 4a-4b, 5a-5b, and 6a-6b are illustrations of exemplary menus and sub-menus before and after the operations recited in claim 22 have been performed. The menus and sub-menus illustrated in Figures 3-6 are described in greater detail on pages 10-16, in accordance with some embodiments. Further, additional support can be found in Figure 7 and its corresponding description on pages 16-17. Figure 7 illustrates an exemplary computer system capable of performing the operations of a server like the operations recited in claim 22, in accordance with some embodiments.

Independent claim 31 is directed towards *a method of installing game software and sub-menu items utilized by a client device apparatus* like the client device claimed in claim 14. Claim 31 recites, in substance, the method recited by claim 22, except that the resource recited by claim 22 is game software, as recited by claim 31. Accordingly, support can be found for claim 31 in figures and passages enumerated in the paragraph describing claim 22, and especially in Figures 3a-3b, which illustrate menus and sub-

menus having game software items, before and after the operations of claim 31 have been performed.

Independent claim 33 is directed towards *an apparatus performing the operations of a client device installing game software and sub-menu items* which, in substance, is claim 31 in apparatus form. Therefore, support can be found in the same figures and passages in the specification enumerated in the immediately preceding paragraph. Further, additional support can be found in Figure 7 and its corresponding description on pages 16-17. Figure 7 illustrates an exemplary computer system capable of performing the operations of a client device like the operations recited in claim 31, in accordance with some embodiments.

Independent claim 35 is directed towards *a server apparatus performing the operations of installing game software and sub-menu items on a client device* like the client device claimed in claim 33. Claim 35 recites, in substance, the server apparatus recited by claim 28, except that the resource recited by claim 28 is game software, as recited by claim 35. Accordingly, support can be found for claim 35 in the figures and passages enumerated in the paragraph describing claim 28, and especially in Figures 3a-3b, which illustrate menus and sub-menus having game software items, before and after the operations of claim 31 have been performed.

**Grounds For Rejection To Be Argued On Appeal:**

- I. Claims 1-6 and 8-36 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,314,570 to *Tanigawa et al.* (hereinafter "Tanigawa").
- II. Claim 7 stands rejected under 35 U.S.C. §103(a) over the teachings of Tanigawa, as applied to claims 1 and 6, and further in view of U.S. Patent Publication No. 2002/0080771 by *Krumer* (hereinafter "Krumer").

### **Grouping of Claims**

For purposes of this appeal, based on the above listed grounds of rejection and their current pending states, claims 1-36 stand or fall together.

### **Arguments:**

- I. Rejection of claims 1-6 and 8-36 under 35 U.S.C. §102(e) was improper because Tanigawa fails to anticipate the invention as claimed in claims 1-6 and 8-36.

It is well settled that anticipation under 35 U.S.C. §102 requires the disclosure in a single piece of prior art to teach **each and every** limitation of a claimed invention. *Electro Med. Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052, 32 USPQ2d 1017, 1019 (Fed. Cir. 1994). MPEP 2131 states, "TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM" and "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Furthermore, anticipation requires that each claim element must be identical to a corresponding element in the applied reference. *Glaverbel Société Anonyme v. Northlake Mktg & Supply, Inc.*, 45 F.3d 1550, 1554 (Fed. Cir. 1995). Thus, to anticipate the present invention, Tanigawa must disclose every element recited in the pending claims.

Claim 1 recites a method comprising:

"receiving from a remote server a distribution collection of sub-menu items for a menu item;

determining whether one or more of the sub-menu items of said distribution collection are not a part of an operational collection of sub-menu items of the menu item;

updating the operational collection of sub-menu items of the menu item; and  
changing an operational visual representation of the menu item from a first state to a second state to convey to a user of the client device that new sub-menu items have been added to the operational collection of sub-menu items of the menu item.”

In contrast, Tanigawa simply discloses a data processing apparatus to display on a display unit, such as a television, a set of document data and a menu, the menu including as menu items titles to stored documents of document data. The document data displayed by Tanigawa is stored in a data storage unit of the apparatus and is organized into “documents,” each document having a title and contents. The contents of any one document are then linked to the titles of other documents that match the contents of the one. Thus, any one document of a certain title may have contents matching multiple other documents with multiple other titles. As illustrated in figures 20-27 of Tanigawa, document data is first displayed in response to input from a user. Then, if a user subsequently inputs a request for a menu, a menu will be generated by Tanigawa and displayed next to the document data. The menu is generated from contents of the document currently displayed. Tanigawa searches its data storage unit for document data titles matching the contents of the document that is displayed. The menu is then constructed and displayed from the titles found to match. Should the user select a menu item to hierarchically browse, Tanigawa will then construct a sub-menu to display next to the menu, the sub-menu constructed from titles corresponding to contents of the document for which the selected menu item is the title. The user may then choose to update which set of document data is to be displayed, and thus which corresponding menu is to be generated.

Even assuming *arguendo* that Tanigawa discloses “receiving from a remote server a distribution collection of sub-menu items for a menu item” and “determining whether one or more of the sub-menu items of said distribution collection are not a part of an operational collection of sub-menu items of the menu item” (points which Applicant

does not concede), Tanigawa fails to teach both “updating the operational collection of sub-menu items of the menu item” and “changing an operational visual representation of the menu item from a first state to a second state to convey to a user of the client device that new sub-menu items have been added to the operational collection of sub-menu items of the menu item.”

First, Tanigawa simply does not disclose the updating of an operational collection of sub-menu items for a particular menu item. The sub-menu that is displayed on the display unit may indeed be changed, but only if the selected menu item changes. Thus, even assuming a new operational collection of sub-menu items is created when a new sub-menu is generated and displayed, the sub-menu items will be of a different menu item, that is, they will not be “sub-menu items of the menu item.” Thus, Tanigawa fails to teach “updating the operational collection of sub-menu items of the menu item.”

It further follows that Tanigawa fails to teach “new sub-menu items have been added to the operational collection of sub-menu items of the menu item.” As mentioned above, each menu item may have a sub-menu generated that corresponds to it. However, since the sub-menu is generated from a data storage device having document data which Tanigawa does not disclose the updating of, there is nothing to serve as “new sub-menu items.” Rather, as taught by Tanigawa, each and every time a particular menu item is selected, the same corresponding sub-menu will be generated. Thus, there are no “new sub-menu items” to add to the “operational collection of sub-menu items of the menu item.”

Additionally, Tanigawa fails entirely to disclose “changing an operational visual representation of the menu item from a first state to a second state.” Tanigawa does not teach the updating of menu items. It only teaches the updating of the displayed menu. Thus, while a first menu item of a first menu may be replaced by a second menu

item of a second menu on the display unit, the first menu item is not updated in Tanigawa to some other state of itself. The closest Tanigawa approaches this recitation of claim 1 is in allowing a menu item to be highlighted or not highlighted. However, even assuming *arguendo* that “highlighted” or “not highlighted” read on first state and second state, Tanigawa does not teach highlighting or not highlighting “to convey to a user of the client device that new sub-menu items have been added to the operational collection of sub-menu items of the menu item,” as is claimed in claim 1.

Accordingly, Tanigawa fails to anticipate the present invention as claimed in claim 1 in as complete of detail as is claimed.

Claims 14, 22, 25, 28, 31, 33, and 35 recite limitations similar to those of claim 1. Accordingly, for at least the same reasons, Tanigawa fails to anticipate claims 14, 22, 25, 28, 31, 33, and 35.

Claims 2-6, 8-13, 15-21, 23-24, 26-27, 29-30, 32, 34, and 36 depend from claims 1, 14, 22, 25, 28, 31, 33, and 35, respectively, incorporating their limitations. Accordingly, for at least the same reasons, Tanigawa fails to anticipate claims 2-6, 8-13, 15-21, 23-24, 26-27, 29-30, 32, 34, and 36.

- II. Rejection of claim 7 under 35 U.S.C. §103(a) was improper because Tanigawa and Krumer, alone or in combination, fail to teach the claimed invention when the invention as claimed in claim 7 is viewed as a whole.

Krumer does not remedy the above-discussed deficiencies of Tanigawa. Therefore, claim 1 remains patentable over Tanigawa even when combined with Krumer.

Claim 7 depends on claim 1, incorporating its limitations. Therefore, for at least the same reasons, claim 7 is patentable over Tanigawa and Krumer, alone or in combination.

### **Conclusion**

Appellant respectfully submits that all the appealed claims in this application are patentable and requests that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

This brief is submitted in triplicate, along with Check Number 13718 for \$500.00 to cover the filing of appeal brief. We do not believe any additional fees, in particular extension of time fees, are needed. However, should that be necessary, please charge our deposit account 500393. In addition, please charge any shortages and credit any overages to Deposit Account No. 500393.

Date: February 27, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert C. Peck', written over a horizontal line.

Robert C. Peck, Reg. No. 56,826  
Agent for Appellant Applicant

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## Appendix A – Appealed Claims

1. (Original) In a client device, a method of operation comprising:  
receiving from a remote server a distribution collection of sub-menu items for a menu item;  
determining whether one or more of the sub-menu items of said distribution collection are not part of an operational collection of sub-menu items of the menu item;  
updating the operational collection of sub-menu items of the menu item; and  
changing an operational visual representation of the menu item from a first state to a second state to convey to a user of the client device that new sub-menu items have been added to the operational collection of sub-menu items of the menu item.
2. (Original) The method of claim 1, wherein said updating of the operational collection of sub-menu items of the menu item comprises adding said one or more of the sub-menu items of said distribution collection that are not part of said operational collection of sub-menu items of the menu item to the operational collection of sub-menu items of the menu item.
3. (Original) The method of claim 1, wherein said first state of the operational visual representation of the menu item comprises a description of the menu item, and said changing of the operational visual representation of the menu item from the first state to the second state comprises changing said operational visual representation of the menu item comprising said description of the menu item to an operational visual representation of the menu item comprising said description of the menu item annotated with an indication that one or more sub-menu items have been added to the operational collection of sub-menu items of the menu item.
4. (Original) The method of claim 1, wherein the method further comprises responsive to an occurrence of a predetermined condition, changing said operational visual representation of the menu item from said second state back to said first state.

5. (Previously Presented) The method of claim 4, wherein said predetermined condition comprises a user having selected a predetermined number of at least one or more added sub-menu items.

6. (Original) The method of claim 1, wherein said menu item corresponds to a family of program products, said sub-menu items correspond to program products of the family, and said one or more sub-menu items that are not part of the operational collection of sub-menu items of the menu item correspond to newly available program products of the family or newly available versions of the program products of the family.

7. (Original) The method of claim 6, wherein the family of product products is 3D computer games, and each of the program products is a 3D computer game.

8. (Original) The method of claim 1, wherein said menu item corresponds to a family of media contents, said sub-menu items correspond to media contents of the family, and said one or more sub-menu items that are not part of the operational collection of sub-menu items of the menu item correspond to newly available media contents of the family or newly available versions of the media contents of the family.

9. (Original) The method of claim 8, wherein the family of media contents is a bulletin board of information postings, and each of media contents is an information posting.

10. (Original) The method of claim 1, wherein said menu item corresponds to a family of documents, said sub-menu items correspond to documents of the family, and said one or more sub-menu items that are not part of the operational collection of sub-menu items of the menu item correspond to newly available documents of the family or newly available versions of the documents of the family.

11. (Original) The method of claim 1, wherein one or more sub-menu items comprise locators identifying locations from which resources to which the one or sub-menu items correspond can be retrieved.

12. (Original) The method of claim 11, wherein said locations are disposed within a local file subsystem, and the method further comprises receiving said resources into said locations of said file subsystem from a selected one of said remote server or an agent of said remote server.

13. (Original) The method of claim 11, wherein said resources comprise selected ones of executable, text files and web pages.

14. (Original) An apparatus comprising:

storage medium having stored therein a plurality of programming instructions designed to implement a menu management function, when executed, enables the apparatus to

receive from a remote server a distribution collection of sub-menu items for a menu item,

determine whether one or more of the sub-menu items of said distribution collection are not part of an operational collection of sub-menu items of the menu item,

update the operational collection of sub-menu items of the menu item, and

change an operational visual representation of the menu item from a first state to a second state to convey to a user of the client device that new sub-menu items have been added to the operational collection of sub-menu items of the menu item; and

at least one processor coupled to the storage medium to execute the programming instructions.

15. (Original) The apparatus of claim 14, wherein said menu management function enables said apparatus to update the operational collection of sub-menu items of the menu item by adding said one or more of the sub-menu items of said distribution collection that are not part of said operational collection of sub-menu items of the menu item to the operational collection of sub-menu items of the menu item.

16. (Original) The apparatus of claim 14, wherein said first state of the operational visual representation of the menu item comprises a description of the menu item, and said menu management function enables said apparatus to change the operational visual representation of the menu item from the first state to the second state by changing said operational visual representation of the menu item comprising said description of the menu item to an operational visual representation of the menu item comprising said description of the menu item annotated with an indication that one or more sub-menu items have been added to the operational collection of sub-menu items of the menu item.

17. (Original) The apparatus of claim 14, wherein said menu management function further enables said apparatus to change said operational visual representation of the menu item from said second state back to said first state, responsive to an occurrence of a predetermined condition.

18. (Original) The apparatus of claim 14, wherein said menu item corresponds to a family of program products, said sub-menu items correspond to program products of the family, and said one or more sub-menu items that are not part of the operational collection of sub-menu items of the menu item correspond to newly available program products of the family or newly available versions of the program products of the family.

19. (Original) The apparatus of claim 14, wherein said menu item corresponds to a family of media contents, said sub-menu items correspond to media contents of the family, and said one or more sub-menu items that are not part of the operational

collection of sub-menu items of the menu item correspond to newly available media contents of the family or newly available versions of the media contents of the family.

20. (Original) The apparatus of claim 14, wherein said menu item corresponds to a family of documents, said sub-menu items correspond to documents of the family, and said one or more sub-menu items that are not part of the operational collection of sub-menu items of the menu item correspond to newly available documents of the family or newly available versions of the documents of the family.

21. (Original) The apparatus of claim 14, wherein one or more sub-menu items comprise locators identifying locations from which resources to which the one or sub-menu items correspond can be retrieved.

22. (Previously Presented) A method comprising:  
installing a first version of a first resource on an apparatus;  
installing also on said apparatus a first sub-menu item corresponding to the first version of the first resource; and  
installing further on said apparatus an agent to facilitate subsequent installing on said apparatus a second sub-menu item corresponding to a selected one of a second version of the first resource and a third version of a second resource, and to facilitate modification of a visual representation of a menu item of said apparatus to which at least one or multiple sub-menu items are members, to draw an user's attention to said second sub-menu item.

23. (Previously Presented) The method of claim 22, wherein said agent facilitates modification of said visual representation of said menu item of said apparatus to which at least one or multiple sub-menu items are members by facilitating modification of said visual representation of said menu item from a first state to a second state, and said agent further facilitates restoration of said visual representation of said menu item back to said first state responsive to an occurrence of a pre-determined condition.

24. (Previously Presented) The method of claim 23, wherein said resource is a selected one of an executable and a media content.

25. (Previously Presented) An apparatus comprising:  
storage medium having stored therein a plurality of programming instructions, when executed,  
install a first version of a first resource on said apparatus,  
install within a menu hierarchy of said apparatus a first sub-menu item corresponding to the first version of the first resource, and  
install an agent on said apparatus to facilitate subsequent installation of a second sub-menu item corresponding to a selected one of a second version of the first resource and a third version of a second resource, and to facilitate modification of a visual representation of a menu item of said menu hierarchy to which at least or multiple sub-menu items are members, to draw an user's attention to said second sub-menu item; and  
at least one processor coupled to the storage medium to execute the programming instructions.

26. (Previously Presented) The apparatus of claim 25, wherein said agent facilitates modification of said visual representation of said menu item to which at least one or multiple sub-menu items are members by facilitating modification of said visual representation of said menu item from a first state to a second state, and said agent further facilitates restoration of said visual representation of said menu item back to said first state responsive to an occurrence of a pre-determined condition.

27. (Previously Presented) The apparatus of claim 25, wherein said resource is a selected one of an executable and a media content.

28. (Previously Presented) A server apparatus comprising:

storage medium having stored therein a plurality of programming instructions, when executed,

- install a first version of a first resource on a client apparatus,
- install within a menu hierarchy of said client apparatus a first sub-menu item corresponding to the first version of the first resource, and
- install an agent on said client apparatus to facilitate subsequent installation of a second sub-menu item corresponding to a selected one of a second version of the first resource and a third version of a second resource, and to facilitate modification of a visual representation of a menu item of said menu hierarchy to which at least one or multiple sub-menu items are members, to draw an user's attention to said second sub-menu item; and

at least one processor coupled to the storage medium to execute the programming instructions.

29. (Previously Presented) The apparatus of claim 28, wherein said agent facilitates modification of said visual representation of said menu item to which at least one or multiple sub-menu items are members by facilitating modification of said visual representation of said menu item from a first state to a second state, and said agent further facilitates restoration of said visual representation of said menu item back to said first state responsive to an occurrence of a pre-determined condition.

30. (Previously Presented) The apparatus of claim 28, wherein said resource is a selected one of an executable and a media content.

31. (Previously Presented) A method comprising:

- installing a first version of a first game software on an apparatus;
- installing also on said apparatus a first sub-menu item corresponding to the first version of the first game software; and
- installing further on said apparatus an agent to facilitate subsequent installing on said apparatus a second sub-menu item corresponding to a selected one of a

second version of the first game software and a third version of a second game software, and to facilitate modification of a visual representation of a menu item to which the sub-menu items are members, to draw an user's attention to said second sub-menu item.

32. (Previously Presented) The method of claim 31, wherein said agent facilitates modification of said visual representation of said menu item to which the sub-menu items are members by facilitating modification of said visual representation of said menu item from a first state to a second state, and said agent further facilitates restoration of said visual representation of said menu item back to said first state responsive to an occurrence of a pre-determined condition.

33. (Previously Presented) An apparatus comprising:  
storage medium having stored therein a plurality of programming instructions, when executed,  
install a first version of a first game software on said apparatus,  
install within a menu hierarchy of said apparatus a first sub-menu item corresponding to the first version of the first game software, and  
install an agent on said apparatus to facilitate subsequent installation of a second sub-menu item corresponding to a selected one of a second version of the first game software and a third version of a second game software, and to facilitate modification of a visual representation of a menu item of said menu hierarchy to which the sub-menu items are members, to draw an user's attention to said second sub-menu item; and  
at least one processor coupled to the storage medium to execute the programming instructions.

34. (Previously Presented) The apparatus of claim 33, wherein said agent facilitates modification of said visual representation of said menu item to which the sub-menu items are members by facilitating modification of said visual representation

of said menu item from a first state to a second state, and said agent further facilitates restoration of said visual representation of said menu item back to said first state responsive to an occurrence of a pre-determined condition.

35. (Previously Presented) A server apparatus comprising:

storage medium having stored therein a plurality of programming instructions, when executed,

install a first version of a first game software on a client apparatus,  
install within a menu hierarchy of said client apparatus a first sub-menu item corresponding to the first version of the first game software, and  
install an agent on said client apparatus to facilitate subsequent installation of a second sub-menu item corresponding to a selected one of a second version of the first game software and a third version of a second game software, and to facilitate modification of a visual representation of a menu item of said menu hierarchy to which the sub-menu items are members, to draw an user's attention to said second sub-menu item; and

at least one processor coupled to the storage medium to execute the programming instructions.

36. (Previously Presented) The server apparatus of claim 35, wherein said agent facilitates modification of said visual representation of said menu item to which the sub-menu items are members by facilitating modification of said visual representation of said menu item from a first state to a second state, and said agent further facilitates restoration of said visual representation of said menu item back to said first state responsive to an occurrence of a pre-determined condition.



## **Appendix B – Copies of Evidence Submitted**

No evidence has been submitted under 37 C.F.R. 1.130, 1.131, or 1.132. No evidence entered by Examiner has been relied upon by Appellant in the appeal.